

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY C. OCKLETREE,

Plaintiff,

vs

FRANCISCAN HEALTH SYSTEM, et al.,

Defendants.

NO. 11-05836 RBL

PLAINTIFF'S MOTION FOR LEAVE TO
AMEND HIS COMPLAINT

NOTED FOR: May 2, 2014

I. RELIEF REQUESTED

Plaintiff asks this Court for leave to file a Second Amended Complaint including a state law claim for retaliation based on events that occurred in the month before this matter was stayed.

II. FACTS

As the Court is well aware, Larry Ockletree filed this lawsuit following Franciscan Health System's decision to terminate him on September 10, 2010. *Dkt. 1*. The suit was filed in Pierce County Superior Court and removed by Defendant Franciscan Health System on October 11, 2011. *Id.* On January 22, 2012 the Court issued a Minute order setting pretrial deadlines requiring discovery to be completed by October 22, 2012, all

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1 dispositive motions to be filed by November 21, 2012, and scheduling trial for February
2 19, 2013. *Dkt. 13.* Larry Ockletree obtained leave to amend his initial complaint and
3 filed an amended complaint in April 2012. *Dkt. 23, 24.* The parties conducted written
4 discovery and deposed witnesses. *Bloomfield Dec.*

5 In September 2012 Defendant filed a motion to dismiss certain claims (Dkt. 39)
6 and Plaintiff filed a Motion for Partial Summary Judgment on November 12, 2012, in
7 accord with the Court's deadline for dispositive motions. The court stayed these
8 proceedings on November 29, 2012, pending a decision by the Washington State
9 Supreme Court on the Court's certified questions. *Dkt. 60.*

11 Meanwhile, in July 2012, Franciscan Health System developed an "Admin Support
12 Clerk" position with the job code of 5596 in "Dept No." 6161 to support the Security
13 Department at St. Joseph Hospital. *Bloomfield Dec. Ex. 1 (Proposed Amended Complaint*
14 *at Ex. A).* Plaintiff Ockletree was qualified for the "Admin Support Clerk" position and
15 applied for this position on October 18, 2012. *Bloomfield Dec. Ex. 1 (Proposed Amended*
16 *Complaint at Exs. B and C).* Plaintiff was not hired for the "Admin Support Clerk" position.
17 *Bloomfield Dec.* Plaintiff is filing this motion at this time, because the facts and
18 circumstances supporting a retaliation claim arose during the month preceding the stay
19 of this case. Plaintiff is moving to amend to add this claim in advance of a new joint
20 status report and case scheduling order.

22 The only substantive change to the Amended Complaint is to assert a claim of
23 retaliation by failing or refusing to hire Plaintiff for a position created in July 2012 and
24 that he applied for in October 2012. The allegations relating to the new claim are included
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1 in the Proposed Second Amended Complaint at paragraphs 3.24-3.35 and paragraph
2 8.4. *Bloomfield Dec. Exhibit C.*

3 III. ISSUE PRESENTED

4 Should the Court allow Plaintiff to amend his complaint to streamline and more
5 specifically plead his causes of action? Yes.

6 IV. EVIDENCE RELIED UPON

7 Plaintiff relies on the supporting Declaration of Stephanie Bloomfield with Exhibits
8 and the records and files in this matter.

9 V. ARGUMENT

10 No new parties are being added and the discreet retaliation claim involves
11 conduct in the July 2012-October 2012 period involving the denial of a position, which
12 Plaintiff asserts was not offered to him because he refused to dismiss the case and settle
13 on Defendant's terms. A party may amend a pleading with the leave of the Court. Fed. R.
14 Civ. P. 15(a). Such leave "shall be freely given when justice so requires." *Id.* (emphasis
15 added). The purpose behind this rule is "to facilitate decisions on merits, rather than on
16 technicalities or pleadings." *James v. Pliler*, 269 F.3d 1124, 1126 (9th Cir. 2001).
17 Amendments are generally allowed absent bad faith, undue delay, futility, or prejudice to
18 the opposing party. *Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995). None of those
19 factors are present and the Court should, pursuant to Fed. R. Civ. P. 15(a), grant Plaintiff
20 leave to amend his complaint. This Amendment was proposed as soon as the stay was
21 lifted after the Court issued a request for a Joint Status Report.
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1 VI. CONCLUSION

2 Plaintiff respectfully requests that this Court grant his motion to amend because
3 justice requires the proposed amendment to permit Mr. Ockletree to assert his retaliation
4 claims in this litigation. Piecemeal litigation of that issue in a separate proceeding would
5 not be reasonable, and this will benefit the parties and the Court in addressing the claims
6 efficiently as this case moves forward.

7 Dated this 10th day of April, 2014,

8
9 GORDON THOMAS HONEYWELL LLP
10 Co-Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that I served the attached PLAINTIFF'S MOTION TO AMEND AMENDED COMPLAINT by causing the same to be served by CM/ECF e-service on counsel for defendants at swillert@williamskastner.com, kglickstein@polsinelli.com, and cjohnson@polsinelli.com.

Dated this 10th day of April, 2014.

By:



Christine L. Scheall
Legal Assistant